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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Plaintiff Brigette Smith (hereinafter “Plaintiff”), alleges the following upon information and belief based upon personal knowledge:

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. PARTIES

2. Plaintiff, Brigitte Smith (“Plaintiff”), is a natural person residing in San Bernardino County in the State of California and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ Code §1788.2(h).

3. At all relevant times herein, Defendant, West Asset Management (“Defendant”), was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692(a)(5), and a “consumer debt,” as defined by Cal. Civ. Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692(a)(6), and RFDCPA, Cal. Civ. Code §1788.2(c).

4. Plaintiff does not know the true names and capacities, whether corporate, partnership, associate, individual or otherwise, of Defendants sued

1 herein as Does 1 through 10, inclusive, and therefore names said Defendants
2 under provisions of Section 474 of the California Code of Civil Procedure.

3 5. Plaintiff is informed and believes, and on that basis alleges that
4 Defendants Does 1 through 10 are in some manner responsible for acts,
5 occurrences and transactions set forth herein and are legally liable to Plaintiff.
6

7 **III. FACTUAL ALLEGATIONS**

8 6. At various and multiple times prior to the filing of the instant
9 complaint, including within the one year preceding the filing of this complaint,
10 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
11

12 7. Defendant has placed calls Plaintiff on a daily basis, mostly from
13 telephone number (909) 895-0483, in its attempt to collect the alleged debt.
14

15 8. On information and belief, initially, Plaintiff received two or more
16 calls per day from Defendant in connection with the collection of the alleged
17 debt.
18

19 9. On information and belief, initially, Plaintiff received ten (10) or
20 more calls per week from Defendant in connection with the collection of the
21 alleged debt.
22

23 10. Plaintiff asserts that she demanded for Defendant to stop its
24 relentless collection calls, however, Defendant was undeterred and continued to
25 place calls to Plaintiff.
26

1 11. Plaintiff further asserts that she still receives collection calls,
2 intermittently, from Defendant; the most recent call having been placed in
3 December 2014.
4

5 12. Plaintiff contends that she has a sleeping disorder and Defendant's
6 constant calling further aggravates this condition.
7

8 13. Defendant's conduct violated the FDCPA and the RFDCPA in
9 multiple ways, including but not limited to:
10

- 11 a) Engaging in conduct the natural consequence of which is to harass,
12 oppress, or abuse Plaintiff (§ 1692d);
13 b) Causing a telephone to ring or engaging any person in telephone
14 conversation repeatedly or continuously with intent to annoy, abuse,
15 or harass any person at the called number (§ 1692d(5));
16 c) Causing a telephone to ring repeatedly or continuously to annoy
17 Plaintiff
18 (Cal. Civ. Code § 1788.11(d));
19 d) Communicating, by telephone or in person, with Plaintiff with such
20 frequency as to be unreasonable and to constitute a harassment to
21 Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e)).
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23 14. As a result of the above violations of the FDCPA and RFDCPA,
24 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
25 humiliation, embarrassment, mental anguish and emotional distress, and
26 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
27 and costs and attorney's fees.
28

**COUNT I: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

15. Plaintiff reincorporates by reference all of the preceding paragraphs.

16. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees; and
- D. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

17. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages;
- C. Costs and reasonable attorney's fees; and,
- D. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

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Respectfully submitted July 27, 2015

By: /s/ L. Paul Mankin
L. Paul Mankin
Law Offices of L. Paul Mankin
Attorney for Plaintiff